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ABSTRACT

The Carl D. Perkins Vocational Education Act and the Job Training Partnership Act (JTPA) contain several inconsistent fiscal and legal requirements. The federal legal framework governing expenditure of funds under the Perkins Act and JTPA is voluminous and cumbersome, but no effort has been undertaken to maintain a coherent legal resource covering both programs. Increased interaction between the two programs in the delivery of services to the disadvantaged is inhibited due to conflicting rules on matching, inconsistent definitions of "disadvantaged," excess costs requirements, and dissimilarity in audit resolution procedures. Recommendations include development of a resource guide cross-referencing all legal requirements in each program; publication of all new policies in the Federal Register; Congress's reconsideration of the need for the 50-50 match in the Perkins Act; a common definition of "disadvantaged" in both programs; and the elimination of the excess cost limitation. (Appendixes include departmental rulings on audit exceptions and a computation of the comments received on the monograph from State Directors of Vocational Education and Governors' JTPA liaisons.) (YLB)

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Monograph Series

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THE LEGAL AND FISCAL DISJUNCTION

BETWEEN

THE CARL PERKINS VOCATIONAL EDUCATION ACT

AND

THE JOB TRAINING PARTNERSHIP ACT

U.S. DEPARTMENT OF EDUCATION
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By:
Michael Brustein
BRUSTEIN & MANASEVIT
3105 South Street, N.W.
Washington, D.C. 20202
202-965-3652

National Association of
State Directors of
Vocational Education
1420 16th Street, N.W.
Washington, D.C. 20036

National
Commission
for
Employment
Policy

1522 K Street, N.W.
Suite 300
Washington, D.C. 20005

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The National Commission for Employment Policy (NCEP) monograph series is dedicated to exploring important issues that influence employment and training policies and programs. The objective is to enhance public discussion concerning these issues and to assist decision makers involved with the Nation's employment and training agenda.

The NCEP, authorized under the Job Training Partnership Act (JTPA), is an independent Federal agency with responsibility for examining broad issues associated with the development, coordination, and administration of employment and training programs, and for advising the President and the Congress on related policy issues.

The enclosed draft paper reflects the views of the author and does not necessarily reflect the views of the Commission or its individual members.

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THE LEGAL AND FISCAL DISJUNCTION BETWEEN THE CARL PERKINS VOCATIONAL EDUCATION ACT AND THE JOB TRAINING PARTNERSHIP ACT

Prepared for:

THE NATIONAL COMMISSION ON EMPLOYMENT POLICY

1. INTRODUCTION:

Since 1917, the federal government has been concerned about the availability of the skilled workforce necessary for economic growth and about opportunity for people, particularly those with some kind of disadvantage, to obtain the education and skill training they need to participate in the economy. Numerous federal programs to promote those ends have been created over the years.

In 1917, Congress passed the Smith-Hughes Act to encourage states and localities to build a nationwide vocational education system to prepare the skilled workforce needed at the time. The primary incentive to do so was financial. Today, there are 26,000 funded, staffed and equipped secondary and post-secondary institutions preparing people in over 150 occupations. Congress has maintained incentive funding to vocational education in various forms since 1917. This system is a vast resource serving youth, adults and employers across the country although now sustained by a combination of federal (10%), state (50%) and local (40%) funds. Today 22% of the federal funds provided in the basic state grant are required to be spent on the

disadvantaged, 12% must be used for adults in need of training and retraining while 8.5% is dedicated to single parents and homemakers. These set asides have significant commonality with the eligible population under the Job Training Partnership Act.

In the 1960's the nation became very concerned about those who were not able to get adequate jobs due to a variety of disadvantages. The rapidly changing and developing economy made it difficult for many to keep their skills current. Social problems made it difficult for some to get the skills they needed to even begin. Congress has tried to help this population through several different models beginning with the Manpower Development and Training Act of 1962 and the Economic Opportunity Act of 1964. Today, the Job Training Partnership Act defines the federal role in employment and training for the disadvantaged. This effort is totally funded by the federal government and operated through a system of state administration and local service delivery systems which contract for services needed to help the local disadvantaged population prepare and get jobs in the local economy.

Today, with the number of available jobs increasing and the number of available workers decreasing, the United States is in a position to make great inroads on the numbers of disadvantaged and open the way to the American dream of upward economic mobility, if we can maximize our ability to give people the

general and occupational education they need to work in the available and increasingly technical jobs.

With both these systems concerned about helping the disadvantaged and the dislocated prepare for and obtain jobs, it is obvious they should work together. Their missions are not identical; the vocational education system serves a broader population. However, both systems target disadvantaged individuals, and coordinated efforts are obviously beneficial and legally required.

When the Carl Perkins Vocational Education Act, which authorized vocational education, and the Job Training Partnership Act, which authorizes the employment and training system were written, Congress knew these two systems could help each other. There are 8 references to vocational education in the Job Training Partnership Act (not to Carl Perkins, it was not written until after JTPA was passed) and 22 references to JTPA in the Carl Perkins Vocational Education Act including requirements in both to coordinate with each other.

The legislative efforts at coordinating have met with some success.[1] Morgan Lewis of the Ohio State Center for Research in

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[1] The Perkins Act requires that the National Center for Research in Vocational Education report on joint planning and coordination of programs assisted by the VEA and JTPA. These reports detail significant progress in the coordination of the two programs.

Vocational Education reports in a recent study that over half of JTPA Title IIA clients (78 percent funds) assigned to classroom occupational training received that training in public vocational-technical institutions and a recent survey of post-secondary institutions found that most had some relationship with JTPA, the most frequent direct service being enrollment of JTPA clients in regular occupational classes on an individual referral basis. The fact that many JTPA clients receive instruction in the vocational program may be more the result of JTPA officials deciding the type of training to be provided than the result of joint planning. Coordinated planning is much more likely under the JTPA 8 percent set aside because cooperative agreements are mandated by the law.

Occupational skills training is offered primarily through classroom, on-the-job, and individual referral programs. Service providers for class sized programs include community colleges, secondary schools, proprietary schools and community based organizations. The degree to which responsive coordination between vocational education and JTPA is actually being achieved ranges from little success in establishing some of the specified linkages to the establishment of extremely effective coordination linkages with all the appropriate agencies.

A 1987 study by the Maryland State Council on Vocational-Technical Education reports that coordination with local

education agencies and Private Industry Councils (PICs) is generally satisfactory. However, local education agencies as service providers have been rebuffed. Reasons given for such lack of coordination include inability of the local education agency to satisfy JTPA requirements for anticipated difficulty in meeting performance standards, reluctance to modify schedules for course offerings and availability of school facilities, frustration about redundant administrative requirements, reluctance to utilize unpredictable federal funding to augment instructional staff, questionable interpretation of the legality of adult participation in programs, and personal prejudices of school administrators.

The existing literature also highlights other factors that hinder efforts to bring the two systems into closer collaboration. The most often cited complaint is one of "turf". "Turf" is a familiar word to describe unwillingness of people responsible for a particular operation to share ideas or activities which might lead to any reduction in their own control of the activity.

This paper points out that there are provisions in the laws and federal agency practices which are possibly creating such chilling effects on the activities of responsible public administrators that what appears to be concern over "turf" may well be intelligent hesitancy to become involved with

administrative complexities and potential costs beyond the value of the coordinated activity.

Congress will review both federal laws in 1989. The Carl Perkins Vocational Education Act will be reauthorized. The Job Training Partnership Act may be amended. Possibly some technical changes in JTPA could greatly improve the atmosphere and increase the coordinated activity between both systems. In light of mounting pressures on the federal budget, coordination on behalf of the disadvantaged which leads to greater efficiency and better results for them is highly desirable.

Increased interaction between the two programs and reliance on each other's services cannot be fostered if the governing statutes maintain conflicting definitions, fiscal requirements, eligibility standards, and accountability requirements. An active and possible adversarial audit program by the Department of Education toward the Vocational Education System in the last eight years has aroused caution in vocational education administrators and led them to be less creative and less inclined to interact with other programs subject to a different set of rules. The purpose of this paper is threefold: it identifies specific barriers relating to information dissemination, matching, excess costs and definitions that impede coordination; it recommends specific steps that Congress should

consider in amending the programs; and it sets forth the results of a survey questionnaire mailed to the field.[2]

II. THE LEGAL FRAMEWORK

The federal legal framework governing expenditure of funds under the VEA and JTPA is so voluminous and cumbersome that a law library is required just to keep abreast of the evolving law. The multi-page Carl Perkins Act and JTPA merely represent the "tip of the iceberg." Additionally there are hundreds of pages of applicable program regulations, administrative regulations, program directives, OMB Circulars, and Federal Register policy pronouncements. The requirements tied to each categorical dollar under the VEA and JTPA are so numerous that prudent administrators must be cautious when contemplating new initiatives[3] because any missteps could result in audit exposure.

In addition to the myriad of requirements contained in the Perkins Act, recipients are also bound by:

1) the program regulations at 34 CFR Part 400.

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[2] The survey questionnnaire was sent to all State Directors of Vocational Education and all governors' liasons for JTPA programs. The response rate from the vocational side was 88%. Sixty-one percent of the JTPA respondents completed the survey. Appendix B sets forth a summary analysis of the survey, details the entire scope of the survey results, and contains a copy of the survey questionnaire.

[3] Under the JTPA, governors often impose many additional requirements and procedures.

2) the Education Department General Administrative Regulations (EDGAR) at 34 CFR Parts 74 [4] and 76.
3) the General Education Provisions Act (GEPA).
4) the Single Audit Act and OMB Circular A-128.
5) the Notices of Interpretation promulgated in the Federal Register.
6) the program and policy memoranda issued by the Office of Adult and Vocational Education.
7) the applicable state and local law.

JTPA recipients are bound by:

1) the Job Training Partnership Act
2) the program regulations at:
   - 20 CFR 626: Introduction to the regulations under JTPA
   - 20 CFR 627: State responsibilities under the JTPA
   - 20 CFR 628: Service delivery areas designated under the JTPA
   - 20 CFR 629: General provisions governing programs under Title I, II, and III of JTPA
   - 20 CFR 630: Programs under Title II of JTPA
   - 20 CFR 631: Programs under Title III of JTPA
3) the administrative regulations at 41 CFR 29.70.102, 29 CFR Part 97
4) the Single Audit Act, OMB Circular A-128, 29 CFR Part 96
5) the Notices of Interpretation promulgated in the Federal Register
6) the program and policy memoranda issued by the Employment and Training Administrator
7) the applicable state and local law.

There is no single source available to the local administrator that contains all the legal requirements binding on the VEA and JTPA programs[5]. In the absence of one set of clearly defined legal standards, the task of coordinating the two

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[4] On October 1, 1988, the EDGAR regulations at Part 74 became Part 80.

[5] The Senate Subcommittee on Employment and Productivity published a "Compilation of Job Training and Related Laws" in December, 1986.

programs is considerably more difficult. For example, on October 17, 1988, the Division of Vocational Education in the Education Department issued a ruling that Private Industry Councils (PIC) under JTPA qualified as community based organizations for purposes of funding under the Carl Perkins Vocational Education Act. However, the Education Department used the medium of a "program memorandum" to communicate this interpretation. The program memorandum was sent to a limited audience of State Directors of Vocational Education and State Councils on Vocational Education.[6] It would be extremely difficult for the typical VEA or JTPA administrator to access this vital information that could significantly promote coordination between the programs.

This failure to communicate the policy to PICs nationwide is likely to result in very few PICs receiving VEA grants. Even if such administrators were privy to this interpretation, it is prospective in effect only. This means that if a PIC had received VEA funds prior to October 17, 1988, an auditor likely would have questioned the expenditure. Unfortunately, the result

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[6] Section 431 of the General Education Provisions Act requires that all interpretations be published in the Federal Register. However, the Education Department frequently relies on program memorandum or "Dear Collegue" letters to disseminate policy. The Department of Labor also relies to some extent on program memorandum to issue policy. In addition, the responsibility for communicating DOL directives to local administrators lies with the state job training administrative agency. Accordingly, it would be unwise for the local administrator to rely solely on Federal Register pronouncements.

might be the same even after October 17, 1988 because neither the typical administrator nor the auditor would even be aware of the new ruling.

In sum, no effort has been undertaken to maintain a coherent legal resource covering both programs. The problem is exacerbated by the failure to publish all new policies in the Federal Register.

Recommendation: An effort should be undertaken to develop a resource guide cross referencing all legal requirements in each program; all new policies should be published in the Federal Register.

Response from the Field: Most respondents thought that a single, coherent, legal reference containing all JTPA and VEA requirements would be helpful in the coordination and administration of programs. More than half of the respondents believed that all applicable policies were in fact published in the Federal Register. Virtually all respondents stated their desire to have all such policies published in the Federal Register.

III. THE DISJUNCTION

A. Cost Sharing (Matching)

A major fiscal condition attached to both the VEA and JTPA is the matching requirement. This rule requires the grantee to pay part of an aided project's expenses. This "string" was

attached to the vocational education program as early as the 1917 Smith Hughes Act:

> The moneys expended under the provisions of this Act...shall be conditioned that for each dollar of Federal money expended...the state or local community, or both, shall expend an equal amount...

The federal share under the Perkins Act has remained at fifty percent of the cost of administering the state plan, fifty percent of the cost of administering local programs, fifty percent of the cost of program improvement activities under Title IIB, fifty percent of the excess cost of programs for the handicapped and disadvantaged, and fifty percent of the cost of post-secondary and adult programs.

On the other hand, JTPA is largely federally funded. JTPA imposes, however, a fifty percent match on the limited amount of federal funds expended under the 8% set aside for state education coordination grants under Title II.[7] This match is limited to the services provided under Section 123(a)(1) between State education agencies, service delivery areas and local educational agencies. The Title III program, Employment and Training Assistance for Dislocated Workers, was also subject to a 50% match until the 1986 JTPA amendments removed this requirement.[8]

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[7] The 78% funds earmarked for service delivery areas under Title II are not subject to any match requirement.

[8] This match is reduced by 10% for each 1% by which the average rate of unemployment for the state is greater than the average for all states.

The cost sharing provision in both the VEA and JTPA have been complicated by variations inserted by Congress and interpretations imposed by the agencies. For example, what type of local resource is acceptable as a countable match under the VEA and JTPA? For the most part, the VEA is subject to a "hard" match and the JTPA is subject to a "soft" match. Under a "hard" match, only cash contributions to the project's costs will count. A "soft" or easier match is one in which the value of other contributions to the project is counted. For example, under a soft match a grantee or third party can contribute space, personnel, central administrative services, volunteers, supplies, equipment, real property, etc.

The OMB rules governing cost-sharing or matching are set forth in Subpart G of OMB Circular A-102. These rules provide that cost sharing may be satisfied by either cash contributions or third party in-kind contributions.[9] OMB requires federal agencies to accept third party in-kind contributions in the absence of express legislative authorization to do otherwise.

The Vocational Education Amendments of 1976 (Pub. Law 94-482) contained no express statutory provision prohibiting the use of in-kind contributions. Nonetheless, the implementing

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[9] Third party in-kind contribution means property or services which benefit or support the project and which are contributed by a third party without charge to the grantee.

regulations, 45 CFR 104.301(d), permitted only a hard match. "This means that in-kind contributions shall not be used as part of the state's matching." This restriction was clearly in violation of the OMB requirement.

The Carl Perkins Vocational Education Act of 1984 also did not prohibit the use of in-kind matching. The Technical Amendments, however, made by Title VII of the National Science Engineering, and Mathematics Authorization Act of 1986 (Pub. Law 99-159) authorized the use of in-kind contributions to meet the matching requirements under the excess cost provisions for the 22% disadvantaged set aside, but only if the recipient determines that it cannot otherwise provide the contribution in cash. Thus the implementing regulations under the Perkins Act require a hard cash match for all parts of the program but the disadvantaged set aside.[10] Again, this policy is in conflict with the long standing OMB guideline.

JTPA has no statutory restriction on the use of a soft match. Section 123(b) and section 304(b) provide that the matching amount not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by state or local programs. The JTPA regulations pertinent to matching are very general, requiring

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[10] Only the LEA, not the SEA, can avail itself of the soft match for the disadvantaged program.

that the Governor define and assure adequate resources to meet the match requirement. Thus grantees under JTPA have considerably more flexibility in satisfying the cost sharing requirements.

The Education Department's objective in imposing a hard match on the VEA is less than clear. It may be to avoid the paperwork and administrative difficulties which often accompany in-kind contributions. There is also heated debate whether costs represented by in-kind contributions are directly related to the aided program and whether they represent new expenditures.

In view of the difficulty many VEA grantees experience in generating match dollars, federal funds are often returned. In fact, the National Assessment of Vocational Education recently reported a substantial return of unused federal dollars because grantees were unable to match the prescriptive excess cost requirements.[11] Thus the economic value of in-kind contributions which are allowed under JTPA, should not be discounted by ED simply because it imposes additional administrative burdens. Recommendation: Congress should expressly permit in-kind contributions to satisfy the VEA match requirement.

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[11] In program year 1986-87, 34 percent of eligible recipients were unable to spend all funds received under the handicapped set-aside and 36 percent under the disadvantaged set-aside. Thirteen percent of the funds received under the handicapped set-aside and 17 percent under the disadvantaged set-aside were unspent.

Response from the Field: Seventy-seven percent of the respondents favored the use of in-kind contributions as a means to greater coordination. Those in opposition contend that in-kind contributions often mean no additional funds will be contributed to the effort and that an audit trail would be difficult to maintain.

A separate issue under the cost sharing provisions is the use of funds under one federal grant to match the funds under another federal grant. The OMB rule is that "except as provided by federal statute, a cost-sharing or matching requirement may not be met by costs borne by another federal grant." 34 C.F.R. 75.53(a).[12] Thus VEA funds cannot be used to match JTPA funds and JTPA funds cannot match VEA funds.[13]

The question must therefore be asked whether the existing match requirements, and the restrictions imposed on them by the respective agencies, inhibit the coordination between the programs. In other words, in the absence of the match requirements, would the two delivery systems be meshed more effectively? Should a federal to federal match be considered by Congress?

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[12] General Revenue Sharing funds under 31 U.S.C. 1221 may be used to match other federal funds.

[13] There is no prohibition on the commingling of JTPA and VEA funds as long as separate accountability is maintained. One respondent mistakenly believed that VEA funds could match JTPA funds.

The most oft cited virtue attributed to matching is its effect in stimulating local contributions to the federal programs. Presumably under a fifty-fifty, cash proposition, the federal expenditure buys twice as many benefits and services as 100% federal financing. However, there seems to be scant evidence to support this claim. In the Vocational Education enterprise, the federal share now approximates 10 percent of total expenditures. Thus any anxiety that, in the absence of matching, vocational education would not be a joint financial venture is unjustified.

Recommendation: Congress should reconsider the need for the 50-50 match in the VEA.

Response from the Field: 88% of the respondents thought the 50-50 match requirements in the VEA and JTPA 8% set-aside inhibit coordination between JTPA and VEA. The matching requirement was perceived as limiting the flexibility of the funding, placing a severe financial burden on economically depressed delivery systems, and emphasizing a fiscal objective rather than program goals. The VEA match was also seen as an obstacle to local employers. Some of those respondents who favored retention of the current match requirements argued that local recipients would reduce effort in the absence of a match. In regard to the question whether VEA funds could match JTPA funds and vice versa, 86% of the respondents thought that better coordination would

occur, 88% thought better programs would be possible, and 85% believed that less federal funds would be returned.

B. Target Populations - Disadvantaged

A second major area of discord between the two programs is the lack of a common definition of a primary target population- the disadvantaged. The Perkins Act requires that the State expend at least 22 percent of its grant on the excess cost of supplemental services for disadvantaged programs. On the other hand, the statement of purpose of JTPA is to afford job-training to economically disadvantaged individuals.[14] On the surface it appears that this common denominator - serving the disadvantaged - is ripe for a coordinated approach under JTPA and VEA. However, numerous legal obstacles interfere with a coordinated effort.

In the first place, there is a disharmony between the respective statutory definitions of "disadvantaged". The VEA defines the term as:

> individuals (other than handicapped individuals) who have economic or academic disadvantages and who require special services and assistance in order to enable them to succeed in vocational education programs.

Under JTPA, an individual qualifies as "disadvantaged" if the

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[14] Up to 10% of the participants in all programs in a service delivery area may not be economically disadvantaged if such individuals have encountered barriers to employment.

person satisfies one of any number of economic criteria (e.g., receiving welfare, food stamps, etc.).

Thus an individual who meets the economic criteria would automatically qualify under JTPA, but would only qualify under the VEA if, because of the economic disadvantagement, the individual needs special services in order to succeed in the vocational program. This additional requirement in the VEA, the need for special services, may undermine attempts at coordination. Students may be economically disadvantaged but may not need any concrete or tangible assistance to succeed in a vocational program.[15] In the absence of a specific identified need of the economically disadvantaged individual to be remediated by the VEA, there may be a tendency by the VEA delivery system to overlook this population. The case is much more easily made under the VEA for the academically disadvantaged student[16] who is a grade or more behind and has identified weaknesses in reading and math. Inasmuch as education deficiencies may be more appropriately accomodated by the education system, the VEA delivery system is arguably more inclined to reach out to the academically disadvantaged student

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[15] The Education Department has published guidelines to help states identify eligible activities to serve the economically disadvantaged under the setaside.

[16] An academically disadvantaged individual scores at or below the 25th percentile on a standardized achievement test, or whose grades fall below 2.0 on a 4.0 scale.

and provide remedial training, tutors, or a specialized curriculum, than to the economically disadvantaged student.[17]

It would appear that if the eligibility requirements under JTPA and VEA were identical, there would be a more effective mesh between the programs. Governors as well as program administrators could utilize funding from both sources to serve the same client population. Moreover, the incidence of JTPA purchasing of VEA services would be greater.

Recommendation: There should be a common definition of "disadvantaged" in both programs.

Response from the Field: 84% of the respondents thought that more coordination would occur if the definition of "disadvantaged" were the same. 80% believed that better programs would be possible. This recommendation evoked many significant observations from the respondents. See Appendix B.

C. Excess Costs

VEA efforts at coordination with JTPA have also been thwarted due to the VEA excess cost limitation.[18] Prior to the

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[17] Clearly not all economically disadvantaged individuals are academically disadvantaged.

[18] JTPA also contains an excess cost limitation, but it has no correlation to the VEA provision. First, the JTPA excess cost provision applies to the 30 percent cap that service delivery areas may expend on administrative costs and support payments. Expenditures may be made in "excess" of this 30 percent limitation if certain conditions in 29 U.S.C. 1518 (C)(2) are satisfied.

enactment of the 1984 Perkins Act, the Vocational Education Act of 1963 and its substantive amendments in 1968 and 1976 never expressly referenced "excess costs." The United States Office of Education, however, interpreted the special population set-asides as requiring an excess cost approach for mainstreamed programs and a full cost approach for separate specialized programs. For example, if the cost of offering an electronics program is $700 for the nondisadvantaged students and $800 for the mainstreamed disadvantaged student, then the excess cost is $100 which must be matched 50 percent with non-federal funds. If the academically or economically disadvantaged student was placed in a separate specialized program, however, the excess cost was deemed to be $800, half of which was paid for with non-federal funds. It came as no surprise, therefore, that States and locals opted for the separate specialized program approach, even though fewer students were served.

The Perkins Act eliminated the option for the full cost approach. The disadvantaged set-aside funds are only available for the "federal share of expenditures limited to supplemental or additional staff, equipment, materials and services not provided to other individuals in vocational education that are essential for disadvantaged individuals to participate in vocational education." Sec. 201(C)(2). If the disadvantaged student is placed in a separate program, the federal share is limited to an amount which exceeds the average per-pupil expenditure for a

comparable program for the non-disadvantaged student, thereby eliminating any fiscal incentive to segregate the disadvantaged student.

The net result of these changes in the Perkins Act is that a significant amount of federal funds is not spent. In FY 1987, 17 percent of the nearly $200 million in the disadvantaged set-aside funds have been returned. Thirty-six percent of all post-secondary and secondary institutions have not spent all their disadvantaged set-aside funds. The U.S. Education Department reports in the National Assessment of Vocational Education:

> Vocational education administrators at state and local levels have expressed concern that eligible recipients (school districts and postsecondary institutions) are experiencing difficulties in using Perkins funds. The reasons are complex but involve a combination of changes in allocation brought about through the intrastate formula, the need to justify expenditures as excess costs, and the difficulties inherent in matching federal resources (especially where states do not provide the matching funds and localities must do so). Many states provide no support to locals for satisfying the match requirement for the 22% disadvantage set aside. In the absence of state support locals must return their federal disadvantage funds if they are unable to generate their own matching dollar for the limited excess cost purposes.

These VEA excess cost limitations also discourage coordination with JTPA. Assume, for example, that a governor wanted to tap both the VEA and JTPA to conduct a model training program for welfare recipients. While the JTPA funds are available to pay the full cost of the program, VEA funds could only be used to pay one half of the excess cost of the same

program. The inevitable result is that the federal VEA dollar remains available to pay only a small part of the program.

Recommendation: The elimination of the excess cost limitation would likely increase the coordination between the two programs.

Response from the Field: 87% of the respondents urged Congress to reconsider the excess cost limitation. Of the small minority in favor of retention, some believed that the current requirements will enable more special needs students to be served.

D. The Dissimilarity in Audit Resolution Procedures

This discussion describes the procedures used by the Departments of Labor and Education to resolve audit exceptions for misexpenditure of JTPA and VEA funds. The differences in the procedures do not create impediments to coordination. Nonetheless, the more rigorous audit enforcement by ED has resulted in the development of an adversarial relationship between grantor and grantee.[19] As a result, the VEA administrator may be less willing than the JTPA administrator to undertake a joint enterprise, particularly if there is unfamiliarity with the regulations of the other program.

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[19] DOL audit enforcement is likely to become more rigorous as the guidelines on performance based contracts become more stringent. Many JTPA sources anticipate tighter regulations on what costs would be legitimately charged under the training cost category under these contracts, in addition to the timing of payment points and a stricter adherence to the "placement in jobs for which the training was geared" guidelines. The impact of such changes in policy, now under active consideration, would effect contracts with vocational education institutions.

1. JTPA Audits and Appeals

A state must conduct an independent financial audit of each JTPA recipient at least once every two years. As part of an umbrella audit of federal grant programs almost all JTPA audits are conducted by certified public accountants under the Single Audit Act and its implementing rules under OMB Circular A-128. The JTPA portion of these single audits is relatively small. Federal JTPA audits, conducted by the U.S. Department of Labor (DOL) Office of the Inspector General (OIG), "generally supplement rather than duplicate" state audits.

Under JTPA each state must promulgate procedures to resolve audit disputes, including disallowances. The federal regulations refer to these as "state grievance and hearing procedures." Recipients (the state itself) or subrecipients affected by an audit disallowance may file a claim under the grievance procedures within one year of the audit. The procedures have two levels: the Service Delivery Area (SDA) level, for alleged violations by contractors and service organizations, and the state level, primarily for violations by the state itself or SDA administrators.

Claimants have a right to a hearing under the state procedures within 30 days of filing a claim. The procedures must ensure written notice of the date, time, and place of the state

hearing, an opportunity to present evidence, and a written decision.

The state audit procedures culminate in a final decision by the Governor. Within a reasonable time after the state submits the original audit to DOL, the Governor must submit an audit resolution report to the Department documenting the Governor's disposition of the reported questioned costs.

A grant officer (GO) in the Department's Division of Audit Closeout and Appeal Resolution[20] reviews the Governor's audit resolution. A subrecipient, such as a service organization or JTPA employer, cannot initiate a GO review and generally has no federal right to appeal the Governor's final decision.[21] If the GO is dissatisfied with the state resolution, the GO may issue an "Initial determination" allowing or disallowing specified costs.[22] After issuing the initial determination, the GO must allow the state to present documentation and arguments to resolve informally those matters in controversy. The Secretary then

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[20] This division is within the Office of Financial and Administrative Management of the Education and Training Administration.

[21] Subrecipients might have a right to sue state officials in federal district court if they believe that the JTPA has been interpreted incorrectly.

[22] The GO's initial decision also may impose sanctions directly against a subrecipient, such as a county or a local organization. 29 U.S.C. § 1574(e)(3); 20 C.F.R. §§ 629.44(f), 629.54(e). The subrecipient would have all the federal administrative rights normally accorded to a state.

issues a "final determination" (FD) endorsing or rejecting the attempted informal resolution. The FD may modify the initial determination and may establish a debt for the disallowed amounts.

If the FD upholds a disallowance or imposes any other sanction against the state, the state has 21 days from the date it receives the FD to request a hearing before a DOL administrative law judge (ALJ). When the Department produces some evidence supporting its position, then the state has the burden of persuading the ALJ to overturn the FD. The ALJ has the power to issue subpoenas for witnesses, documents, or other potential evidence.

The state may agree with the Department to bypass the ALJ and submit the matter to a mutually acceptable individual, who within 60 days renders a decision that is treated as a final decision of an ALJ.

Either party may appeal the ALJ decision to the Secretary, who may uphold or modify the decision. The state has 30 days to appeal the Secretary's final decision to the United States Court of Appeals.

2. VEA Audits and Appeals

a. The Education Appeal Board

All audits and audit resolutions under the Carl D. Perkins Vocational Education Act (VEA) and other grant programs administered by the U.S. Department of Education (ED) prior to October 25, 1988 followed an audit resolution procedure before the Education Appeal Board (EAB). It is important to outline these EAB procedures because many current VEA audits will be governed by this audit resolution procedure. Moreover, audit resolution usually entails two to three years until a final agency decision and thus these EAB procedures will remain in place at least until 1990. Due to the length of time consumed by the VEA audit resolution process and the corresponding legal costs, the experience has often had a very disruptive impact on the administration of programs.

The Single Audit Act also applies to VEA, but federal audits are far more common for VEA than for JTPA. The ED Office of Inspector General (OIG) conducts VEA audits or reviews Single Audit Act audits conducted by private or independent state auditors. The OIG provides information to the Assistant Secretary for Vocational Education, who issues a "final letter of audit determination" (FLD) disallowing specific grant expenditures.

The state may request a hearing before the EAB within thirty days after it receives the FLD. EAB members are appointed by and serve at the pleasure of the Secretary of Education. As many as one-third of the members may be ED employees. EAB membership does not require expertise in education or federal grants and only some Board members are lawyers. A panel of three members hear each case.

When the state files a request for hearing, the Chairperson of the EAB reviews the FLD to ensure it contains the required information and may return deficient FLDs to the Department for modification. The Chairperson rarely rejects an FLD, despite the Department's frequent failure adequately to justify the disallowances in the FLD.

The state has the burden of proving the allowability of the disallowed expenditures. Once funds have been disallowed by the Assistant Secretary, the burden of proof on the states is often difficult to satisfy (see Appendix A). The Board cannot compel discovery or issue subpoenas. The state or the Department has 60 days to appeal the EAB panel's decision to the Secretary. The state may appeal the Secretary's final decision to the United States Court of Appeals.

The procedures do not provide a mechanism for waiving disallowances or considering mitigating circumstances or the

degree of harm to federal interests. There is no mechanism to bypass the EAB through alternative dispute resolution by a mutually acceptable individual.

b. The Office of Administrative Law Judge

A new procedure, which includes review by an administrative law judge, applies to audit disallowances received by the state after October 25, 1988. Congress enacted the procedure as part of the Education Amendments of 1988, Pub. L. No. 100-297.

The new law abolishes the EAB and creates an Office of Administrative Law Judges. The Secretary will choose ALJs in the same manner as other federal departments, but must "give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies."

The Department issues a "preliminary departmental decision" (PDD), instead of an FLD, in which the Secretary has the "burden of stating a prima facie case for the recovery of funds." The state may appeal the PDD to an ALJ and has the burden of proving "it should not be required to return the [funds disallowed in the PDD]." Unlike the EAB, the ALJ may order discovery and issue subpoenas. The Department must publish all ALJ decisions. The law also allows alternate dispute resolution through voluntary mediation.

The state or the Department may appeal the ALJ's decision to the Secretary. The state may appeal the Secretary's final decision to the United States Court of Appeals.

The new law greatly changes the method and measure of recovery for improper expenditures. The Secretary may compromise claims under $200,000. States may not recover funds from local education agencies (LEAs) unless the state provided a copy of the PDD to the LEA within 10 days after receiving it. The Department can recover only the amount of misspent funds "proportionate to the extent of the harm [the state's] violation caused to an identifiable Federal interest associated with the program."[23]

3. Comparison of JTPA and VEA Audit and Appeal Procedures

The audit and appeal procedures for JTPA and VEA will be similar under the new Department of Education law. The procedure for reviewing VEA disallowances issued before October 25, 1988, is significantly different from both the JTPA procedure and the new Department of Education procedure. The EAB has no authority to compel discovery or issue subpoenas; the ALJs in DOL

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[23] Federal interest includes, but is not limited to, "serving only eligible beneficiaries; providing only authorized services or benefits; complying with the expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, record keeping, and reporting requirements; and maintaining accountability for the use of funds." 20 U.S.C. § 1234b(a)(2).

and ED may do both. EAB membership requires no particular expertise in education, federal grants, or law. ALJs have expertise in the agency's field and usually are lawyers.

Perhaps most significant, the EAB has no authority to reduce disallowances based on mitigating circumstances. The Secretary of Labor and the new ALJs in the Department of Education are authorized to find mitigating circumstances. The new ED procedure introduces authority for the Secretary to compromise disputes with VEA recipients. Both the new ED procedure and the DOL procedure allow alternate dispute resolution, unlike the old ED procedures.

There are two major legal differences between the new ED procedures and the DOL procedures. First, JTPA's state grievance procedure has no parallel in VEA. The practical effect of this is that the Department of Labor usually deals with only the state itself, not subrecipients. VEA subrecipients play a greater role in the ED procedures than JTPA subrecipients play in the DOL procedures. Second, the federal-level DOL procedures require a greater number of steps than the old or new ED procedures to issue a written notice of audit disallowance. DOL may issue its "final determination" only after an "initial determination" and a period for "informal resolution." Neither the old nor the new ED procedures require these preliminary steps. A VEA audit exception does not constitute a debt to the federal government

until there is a final agency decision. Under JTPA, the debt arises at the time the Governor makes a final determination.

Federal auditors perform a far greater proportion of VEA audits than JTPA audits; almost all JTPA audits are performed by the state as part of a Single Audit Act. The grounds for disallowances are surprisingly similar for both JTPA and VEA, including participant ineligibility, failure to maintain effort, providing unauthorized services or benefits, or failing to keep adequate records. The Department of Education seems to enforce these legal grounds more strictly and more frequently than the Department of Labor, perhaps because the state resolves most of the disputed issues during the state grievance procedure required under JTPA. Nonetheless, DOL's Inspector General recently issued a critical opinion on the Department's administration of the JTPA program:

> "Although Congress intended that the JTPA system be accountable and adhere to various restrictions provided in the act, we found that the system has deviated from congressional intent, and the Employment and Training Administration (ETA)...has neglected its responsibilities to ensure compliance with the act."

Accordingly, the entire JTPA audit process is likely to undergo heightened scrutiny in the future.

In this connection, the questionnaire was designed in part to elicit information from the field on whether the fear of audit exposure inhibited coordination. 41% of the respondents replied

that audit exposure inhibited coordination "somewhat" and 31% thought it had "very little" impact. Only 20% indicated that ED audit practices deterred them from undertaking new initiatives and 17% stated that DOL audit practices had a deterrent effect.

IV. CONCLUSION

There are several inconsistent fiscal and legal requirements contained in the VEA and JTPA. Significantly, increased interaction between the two programs in the delivery of services to the disadvantaged is inhibited due to conflicting rules on matching, excess costs, as well as inconsistent definitions of "disadvantaged". A persuasive case can be made for allowing a "soft" match under the VEA. The rigidity of the excess cost rules also results in the underutilization of VEA disadvantaged funds.

As demonstrated by the Appendix A, the more onerous requirements under the VEA have resulted in a plethora of audit exceptions. The evidence strongly suggests that the Education Department's Inspector General has adopted a more zealous approach to fiscal accountability than the Department of Labor's Inspector General.[24] Millions of dollars of VEA expenditures have been disallowed for lack of compliance with the

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[24] DOL was much more active in debt collection under the old CETA legislation than under the current JTPA because much of audit resolution is handled at the state level.

disadvantaged set-aside, excess cost, matching and fiscal requirements such as record retention, labor distribution records, and timeliness of obligation (see Appendix A). In light of this disparate treatment between federal agencies, VEA administrators should exercise caution in their efforts to reach out to the JTPA community. These inconsistent rules, policies and audit practices should be thoroughly examined during legislative oversight in order to ensure that unnecessary impediments to coordination are removed.

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APPENDIX A

DEPARTMENTAL RULINGS ON AUDIT EXCEPTIONS

1. Decisions Under JTPA

ALJ decisions involving audit disallowances under JTPA are relatively rare.[25] Most ALJ decisions under JTPA involve grant applicants seeking to overturn their unsuccessful applications. Another large group of decisions involve migrant or Native American employment training programs under JTPA.

The audit-related decisions can prove procedurally complicated because of the state grievance procedure required under JTPA. The Governor's decision is final for subrecipients. The state grievance procedure can resolve many audit issues, but it increases the procedural history of any given case. The ALJ must examine the history of both the state grievance procedures and the final determination issued by DOL.

ALJs have upheld disallowances for enrolling ineligible participants, providing unauthorized services, failing to maintain effort, failing to fulfill placement and wage requirements, and failing to document costs properly. Many of these grounds for disallowance have close parallels in VEA.

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[25] Unlike audit resolution under CETA which resulted in a multitude of audit exceptions.

2. VEA Cases

The VEA Amendments of 1976 required that each state's program be audited by the Inspector General. As a direct consequence of this mandate, several audit exceptions were issued resulting in numerous cases before the Education Appeal Board. The following paragraphs set forth the rulings enunciated by the Education Appeal Board.

a. Serving the Disadvantaged

1) The State has the burden of proof to indicate where the allocation of set-aside funds was made for students with special needs. The State must demonstrate the number served and how this number is reflected in the expenditures for those particular students. Appeal of Louisiana, Doc. No. 18-83-81 (1985).

2) The State must submit persuasive underlying documents to substantiate that programs were operated for the benefit of special populations under either the excess cost or full cost approach. This proof may require evidence on the distribution of time by resource teachers serving these students. If equipment purchased with the set-aside funds was also used by the non-disadvantaged in the same instructional setting, then the funds will be disallowed. Appeal of Wyoming, Doc. No. 16(191)85.

3) Once a State adopts a method in the State Plan for allocating funds for the disadvantaged, it must adhere to that

method. If the Plan indicates that eligibility is based on a 12 percent unemployment rate, any district receiving funds that has an unemployment rate under 12 percent is ineligible. If any disadvantaged funds are used for curriculum development, the curriculum must be designed specifically for the disadvantaged. Appeal of the State of Maryland, Doc. No. 10-65-80.

4) Charging the administrative costs of operating a student financial aid office to the disadvantaged set-aside is impermissible because the services were available to all students. The State cannot refuse to identify disadvantaged students for participation in excess costs activities; to suggest that to overtly identify the disadvantaged is discriminatory is "absurd". Appeal of the State of South Dakota, Doc. No. 17-127-83.

5) Any deviation from the approved distribution process for allocating disadvantaged funds is not a mere technical violation. The State must maintain an accurate count of the number of qualified disadvantaged served. Excess costs must be "itemized with great specificity. Estimates are not proper forms of accountability. There must exist a system whereby qualified students are readily identified and their needs documented before set-aside expenditures may be incurred properly." Appeal of the State of Texas, Doc. No. 14-124-83.

6) When a State adopts a funding procedure based on priority factors such as youth unemployment or dropout rates, verification of whether a district qualifies may be based on statistical information received after the year in question. It is manifestly impossible to determine the unemployment rate or dropout rate in a future year or currently funded year. To expect contemporaneous knowledge of future events defeats the program at the outset. Appeal of Michigan, Doc. No. 13-188-85.

b. Set-asides

In determining whether the set-aside requirements for the handicapped and disadvantaged are satisfied, the percentage must be based on the total allotment the State receives, not the total amount of expenditures. For example, if the total grant is $5,000,000, 10 percent or $500,000 must be spent for the handicapped. If the State only expends $4,000,000, the State must still spend $500,000 for the handicapped, even though of the $1,000,000 returned, 10 percent had been earmarked for the handicapped. Appeal of Wyoming, Doc. No. 16(191)85.

c. Supplanting

1) The VEA nonsupplant provision would be violated if the State committed itself to a certain level of State and local funds in the State Plan, and then diverted these funds for purposes other than vocational education. Appeal of the State of Florida, Doc. No. 1-12-75.

2) The Assistant Secretary contends that if a state increases the federal share of a project while keeping the total funding level the same, then the reduction to the State and local level is decreased and this constitutes supplanting in violation of the Carl Perkins Act. Appeal of the State of Idaho, Doc. No. 15-279-88. (Please note: This case has not yet been decided by the Education Appeal Board.)

d. Time Availability for VEA Funds

VEA funds remain available for obligation by the State or eligible recipients for a total of 27 months from July 1 of the year in which the funds were awarded by ED. Funds are considered obligated from the date a binding written commitment (e.g., purchase order, invoice, check for personal services) is made. The accounting of the obligation may occur after the 27-month availability period as long as there is clear unambiguous evidence that the underlying transaction arose during the 27-month period. Appeal of the State of Florida, Doc. Nos. 2-112-83, 24-156-84. In a separate case under the Special Education Act, the Secretary rejected a State's practice of reimbursing local districts after the 27 month period for obligations that occurred during the 27 month period. Appeal of Massachusetts, Doc. Nos. 37-169-84. This ruling may adversely impact on many state vocational funding procedures.

e. Meaning of Obligation of Funds

An obligation of funds requires a binding written commitment within the 27-month period of availability. If the obligation is for construction, an architectural contract is sufficient to constitute a lawful obligation. Appeal of Mississippi, Doc. No. 7-139-84.

f. Time and Attendance

In the absence of the actual time and attendance records, a State may satisfy the record-keeping requirements by submitting after-the-fact affidavits from the VEA employees who were paid from the grants indicating their time and attendance or from supervisors detailing each individual's employee time and attendance. The Education Appeal Board recognizes that this rule imposes a heavy burden on grantees and may result in a harsh result. Appeal of the Commonwealth of Massachusetts, Doc. No. 14-107-82.

THE LEGAL AND FISCAL DISJUNCTION BETWEEN THE CARL PERKINS VOCATIONAL EDUCATION ACT AND THE JOB TRAINING PARTNERSHIP ACT

APPENDIX B

Appendix B of the National Commission of Employment Policy's (NCEP) monograph 89-2, entitled The Legal and Fiscal Disjunction Between The Carl Perkins Vocational Education Act and The Job Training Partnership Act, is a computation of the comments received on the monograph from State Directors of Vocational Education and Governor's JTPA Liaisons. A draft of the monograph was sent to all 50 states, the District of Columbia and seven U.S. territories and possessions. However, since none of the seven U.S. territories and possessions responded, they were deleted from the tabulation. The response rate for the remaining 102 potential respondents were 45 (88%) State Vocational Education Directors and 31 (61%) of the Governor's JTPA Liaisons, for a total of 76 (75%) respondents.

This tabulation, compiled by the National Association of State Directors of Vocational Education (NASDVE), lists the questions asked, the combined response and then any additional comments made by the respondents. NCEP, on behalf of Mr. Brustein, the monograph's author, and NASDVE, wishes to express our appreciation to those state officials who shared their reactions and comments on the paper. Their contributions were invaluable to this project.

Question 1.
Do you agree with each of these recommendations? Please state specifically those recommendations you disagree with and why.

Recommendation 1.1
All policies governing expenditures under JTPA and VEA should be published in the Federal Register? A single legal reference containing all JTPA and VEA legal requirements should be developed.

	VOC ED	JTPA
YES	41	27
NO	3	2
TOTAL	44	29

Comments:

VOC ED: YES
-Rules and regulations, and not policies, are contained in the Federal Register.

-It should be cross referenced.

-It should not contain specific policies.

-Make it available to state and local levels.

JTPA:YES
-BUT...we do not need to pay a consultant more money to reiterate what's printed in existing documents.

-Add cross reference to the applicable Act.

VOC ED : NO
-The Subcommittee on Employment and Productivity of the Senate's Committee on Labor and Human Resources published "A Compilation of Job Training and Related Laws" in December 1986. It is extremely helpful; it should be updated each year.

-This is not a problem.

-It may add a burden on VEA staff to understand JTPA.

-DED's policy and program memorandum system has been effective in providing a uniform method for informing all states regarding the

clarification and interpretation of rules and regulations under VEA.

-Instead just increase mailing list of the Federal Register to include state and local JTPA and VEA administrators.

JTPA: NO
-Why is this necessary?

Recommendation 1.2
Congress should expressly permit in-kind contributions to satisfy the VEA match requirement.

	VOC ED	JTPA
YES	31	25
NO	12	4
TOTAL	43	29

Comments:

VOC ED: NO
-In kind matching is difficult to document. Cash match should be required.

-May result in supplanting issue and require less commitment from local level to operate programs.

-In kind contributions would be meaningless and contribute nothing to VEA programs and services. They are a paper game.

-In kind contributions are too subjective to provide a legitimate audit trail. Space, services and other intangibles are very hard to document.

JTPA: NO
-Considerable difficulty in providing documentation for in-kind matching.

-It could seriously reduce the state and local commitment of resources for voc ed, resulting in voc ed becoming a federal program.

-Eliminate match altogether especially for the set asides rather than using in kind. In kind contributions would not accomplish what Congress intended when they required match. If in kind was allowed, LEA's would be using utilities, classroom space, etc, as match and would circumvent the intent of providing double the services.

-May tend to produce audit exceptions.

-Very difficult to audit in kind match and be assured that funds

being used for one match are not being used for match in another program.

-Match should be eliminated.

-In kind VEA match should not be permitted. It would local commitment to programs and result in reduced services.

-For handling handicapped and disadvantaged, match is not a problem.

Recommendation 1.3
Congress should reconsider the need for the 50-50 match in the VEA, especially as it applies to the setasides.

	VOC ED	JTPA
YES	39	25
NO	5	4
TOTAL	44	29

Comments:

VOC ED: YES
-Cash match yes; in kind no!

-Remove it as it applies to disadvantaged and handicapped.

-Eliminate match; no problem for handicapped.

-Eliminate 50/50 match and treat as other federal programs. Need is outdated since states overmatch. Would allow more flexibility to provide programs in depressed areas where needs are greatest.

-Would the disadvantaged and handicapped receive additional services without this provision?

-Should provide for a statewide aggregate match, especially for set asides.

VOC ED: NO
-Reconsidered for the "additional program cost" only.

-Could result in reduction of services and of support for constituencies served.

-Without the required match or input of local funds, the set asides would not receive any additional funds. Fewer dollars would be made available for voc ed, especially for the special needs "excess costs" programs.

JTPA: NO
-Delete the match. (3 responses)

-JTPA has deleted matching requirement and other programs should delete match, such as 8%. Local commitment is desirable but can be accomplished through linkages without burden of excessive financial recordkeeping required by match.

-Provides a useful tool for increasing funding to programs, gaining local commitment and integrating VEA programs into local educational institutions.

-Enhance cooperation by looking at other sources instead of a sole source.

Recommendation 1.4
There should be a common definition of "disadvantaged" in both VEA and JTPA.

	VOC ED	JTPA
YES	34	25
NO	10	4
TOTAL	44	29

Comments:

VOC ED: YES
-There are two different populations with similar characteristics.

-So long as it includes the academically disadvantaged.

-Use the 1968 definition.

JPTA:YES
-Very helpful!

-As long as JTPA wouldn't suffer.

VOC ED: NO
-The legislation is designed for different purposes. The definitions should correspond with the respective purpose.

-Not necessarily.

-JTPA might exclude VEA disadvantaged.

-We don't want VEA to become more structured and like JTPA.

-VEA needs a definition of economically disadvantaged but JTPA does not.

-We have more flexibility with VEA stipulation for determining disadvantaged students than JTPA. Close look should be made of formula for funding disadvantaged programs. VEA shows funding toward urban areas.

-Definition not the problem. We have problems working with formula for "economically disadvantaged."

JTPA: NO

-Would change the focus of VEA from programs to client services, resulting in a concentration of short term results rather than more lasting changes in service delivery methods.

-JTPA eligible clients will meet current definitions of VEA sufficiently for special consideration.

-Not necessary.

Recommendation 1.5
Elimination of the "excess cost" limitation on the expenditure of VEA disadvantaged funds would increase coordination between two programs.

	VOC ED	JTPA
YES	35	24
NO	6	3
TOTAL	41	27

Comments:

VOC ED: YES
-If you remove 509/50 match also.

-This would help VEA somewhat.

VOC ED: NO
-Need to remove excess cost provision but whether it will improve coordination is doubtful.

-There is nothing wrong with VEA excessive cost." Students should be entitled to program basic services. We would support the removal of average per pupil cost provisions of the separate programs for disadvantaged and handicapped.

-Not necessarily. Part of the issue is also JTPA flexibility and commitment to 1) supporting in school mainstream programs and 2) commitment to financial support for the 201 (VEA)assurances for VEA handicapped, disadvantaged and LEP voc ed students, and providing program services (e.g. child care and transportation) beyond tuition and fees for post secondary students particularly. Flexibility to use 8% funds for these activities in support of training would make like better and easier for clients and educational institutions.

-What about handicapped?

-Not sure it would really increase coordination.

-Elimination would greatly reduce federal leveraging, resulting in less service for and reduced support from handicapped and disadvantaged persons.

Recommendation 1.6
VEA audit resolution procedures would be less adversarial if current DOL audit practices were followed.

	VOC ED	JTPA
YES	32	25
NO	8	2
TOTAL	40	27

Comments: .

VOC ED: YES
-As long as increased state administrative costs are allowable expenditures and administrative set aside in the Act is increased.

VOC ED: NO
-DOL has a formal compliance monitoring system which helps eliminate audit findings.

-We have not experienced any problem in this area.

-VEA and JTPA audit procedures are satisfactory; we prefer VEA.

-Audit disallowances under VEA are relatively rare, while audit resolution under JTPA resulted in a multitude of exceptions; may indicate the need for more zealous approach to fiscal accountability by DOL. DOl audit resolutions might be more accountable if VEA practices were followed.

JTPA: NO
-DOL procedures too restrictive.

QUESTION 2:
What additional modifications would you make in the federal statutes and administrative rule that govern these two programs that would help you coordinate and serve your clients more effectively?

VOC ED:
-Establish one state council, advisory to the State Board of Voc Ed, for both programs which will guide planning and coordination activities.

-Combine both programs into one act.

-Elimination of any matching requirement; state authority to redirect unused set asides to other categories; and exemption to supplement, not supplant, requirements for sub grants to recipients in designated economically depressed areas.

-If JTPA is to become more education oriented for youths and adults, there should be clearer language about voc ed's role in this.

-Direct language between single parents, displaced homemakers and welfare clients.

-Eliminate 50/50 match requirement in JTPA 8%.

-Make definitions on matching provisions the same. Make sure the role of education is not lost in combining the programs.

-Specific amounts should be set aside for youths and adults in JTPA. Both programs should be performance based, i.e. delete the mandate for a full time sex equity person in the VEA and replace with specific functions states must perform.

-All language pertaining to coordination and programs for the same populations should be uniform in both statutes, i.e. when VEA requires plans to be reviewed for comment by JTCCs, the JTPA should require plans to be reviewed by VEPCs.

-Should be resolved to clarify eligibility criteria. There is a need to address the matching funds question. If the match requirement remains, use of VEA and JTPA as allowable match should be clarified.

-Under Section 123 of JTPA there should be more specific language on how these funds should be used, who can receive the funds, how funds can be distributed, and whether or not CBO's, labor organizations and state agencies (other than education) are eligible recipients. Currently only a portion of the 8% are distributed to or through state education agencies.

-Re-examine actual impact of economically depressed area requirements in VEA on ability of states with sparse, widely distributed populations.

-JTPA overlaps training services of voc ed. They should supplement existing services and VEA training programs.

-Disadvantaged set aside should not exclude or limit program applications to schools with 75% economically disadvantaged enrollment. Cap is too high.

-Need for clarification and flexibility of excess cost of disadvantaged and handicapped areas. Build in use of handicapped and disadvantaged funding a capability for professional development and in service education for administrators and teachers at the state and local level.

-Need more specific interpretations of regulations and legislation regarding % of administrative costs of 8% JTPA funds.

-Add handicapped to JTPA.

-"Supplanting" in both acts; more encouragement to avoid duplication of effort.

-Mandate public post secondary vocational representative on the Governor's Job Training Council and PIC's. Comparable MIS tracking of JTPA/VEA students. Review and coordination of JTPA state plan with VEA. Mandate funding of VEA adult training, retraining and employment development.

-There is a lack of equity in the planning process. VEA requires JTPA review and comment but not vice versa.

-Allow matching of federal resources from both acts.

-Eliminate maintenance of effort requirement for VEA.

-"Disadvantaged" should be changed to the 1968 definition.

-Formula for disadvantaged should be eliminated and the funds should be proposal type projects.

-Fold the 10% set aside for corrections into youths and adults.

-Much less paperwork required of VEA than of JTPA.

-VEA delivery systems should be used more extensively than they are to deliver JTPA programs and services. JTPA should assume such use.

-Should be a coordinating structure defined to bring DOL and DOE together at the state level in some interagency governing board to give continuity to programs.

-JTPA 8% set aside should be used exclusively for coordinated programs with the "sole state agency" responsible for the administration of VEA funds. Special guidelines, including modified definitions, reporting requirements, audit practices, etc., should be developed and added as a technical amendment to JTPA.

-JTPA regulations prohibit long term training programs, hence it is difficult to offer long term training that will qualify a person for many skilled jobs which offer high pay. Short term training only qualifies for low paying jobs.

-Amend OMB circular A-87 to remove provision requiring time distribution records and allowing alternative methods for allocating salaries. Change due dates for second year financial report to be different from the final financial report.

-The real issue is that if education and training is required for JTPA type clients, then the funding should be in the voc ed legislation. JTPA has no place in the training delivery service. Why should they be in control of the funds? A lot of resources are wasted on administration when a delivery system is already in place.

-Eliminate VEA limited English proficient requirements if the dollar minimum is less than $1,000; allow states to award formula funds competitively if they are less than some minimum; eliminate VEA distinction between administration and technical assistance. Require DED to publish guidelines/regulations specifying what is eligible match; require JTPA funds to flow to LES's unless other providers are shown to be more cost effective, or LEA unable to serve additional clients.

-There needs to be more focus on eligibility at the adult level. Increased coordination would likely occur if the 10% window with JTPA could be expanded. Projects which are jointly funded or which serve mutual clients ought to have more flexible JTPA funding.

-The concept of performance standards resulting in loss of funds if not met makes LEA's cautious to become involved.

JTPA:

-Financial accounting systems need to be more effectively matched. JTPA is a cost accounting driven system with limits on types of expenditures while VEA is a target group over function driven system with limits on overall expenditures for certain activities.

-JTPA requires that dropouts be served in equitable proportion to the incidence in eligible population which works against providing a great amount of service to in school youth. Consideration should be given to drop out prevention.

-Role of the private sector has to strengthen. Program design and selection is still too controlled by the service providers, with students being viewed as the consumer of voc ed programs. Until the employer has more of a decision making role, voc-tech will continue to produce graduates with skills unrelated to employer's needs.

-Flexibility and control exercised at the local level should be increased, as local labor markets vary significantly.

-Voc ed must move to a performance driven system. The current system focuses on process and effort, not outcomes. Accountability has to be increased.

-Must improve coordination with other training programs especially Apprenticeship and Job Training Partnership programs.

-VEA should provide governors with a set aside to support discretionary projects that would benefit students statewide, such as a resource center for competency based curriculum development and technical assistance.

-Review all definitions and reporting requirements for comparisons.

-More active technical and education involvement.

-Seek input from everyone involved in the process, including business community.

-Allowing in kind match with other federal funds would make it easier for VEA.

-Require VEA to have a meaningful statewide plan including jointly planned activities and programs.

-No teeth in VEA mandate to coordinate; it dosen't require a significant review and comment before or after plans.

-Need joint development of plans; should withhold some funds until joint planning criteria are met.

-Best planning is around the 8% funds!

-There is a fundamental difference in the two systems. Both should adopt JTPA's mission.

-Require strategic planning and linkages, address concurrent timeliness, one eligibility criteria/definition, allow opportunity to merge council, and expand 25% eligibility window.

-Allow VEA to administered through entities (local) other than educational systems.

-Joint oversight of these two programs by state JTC Councils and, at the local level, by PIC's. Additional definitional and reporting changes should be made to remove barriers to coordinated planning.

-Inflexibility of VEA funds deters coordination. Decrease in performance standards under JTPA and national parameters for performance contracting would make bidding on Title IIA contracts more attractive to VEA recipients.

-State level governance of voc ed and JTPA should be performed by JTCC. Both programs should be subject to same federal regulations to improve the local use of both programs by reducing the complexity of the regulations.

QUESTION 3:
In addition to the term "disadvantaged," are there other definitions in the JTPA and VEA programs that impede coordination? Please explain.

VOC ED:
-The formal definitions within JTPA and VEA do not impede coordination as much as the informal definitions used by program personnel.

-"Coordination."

-"Program year" differ.

-Age differences between youths and adults.

-Matching definitions.

-"Program completer."

-Eligibility based on age should be revised to allow better coordination of services. VEA specifies secondary level, which in our state would be 7th grade -- ages 12 to 13. JTPA should adopt the free and reduced lunch criteria in determining economic disadvantagement.

-"Community based organization."

-Don't need separate programs for single parents and displaced homemakers under VEA. Both groups are usually disadvantaged so they should qualify anyway.

-"Matching" and "cost sharing."

-Applicability of the A-103 Rule.

-"On the job training."

-"Work experience."

-"Competencies."

-"Vocational assessment coordination."

-"Pre vocational training."

-"Dislocated worker."

-"Basic skills."

-"Hard to serve status."

-VEA is too complex with too many funding categories, each requiring its own award, service and reporting mechanisms. In addition, requirements are based upon ultimate expenditures by recipients rather than upon grant authorizations awarded to eligible recipients. Simplify VEA!

-Statewide coordination under 8%.

-Adult eligibility under JTPA.

-"Upgrading."

JTPA:
-Difference in terminology is not impeding coordination. It is the motivation and leadership, or lack thereof, of individual administrators and staff.

-Inconsistencies in "program year."

-"Displaced homemakers" and "homemakers."

-"Completion."

-"Placement."

-"Termination."

-"At risk youth."

-"7th grade reading level."

-"Handicapped."

-"Veterans."

-"Local educational systems."

-"Low income level."

-"Offender."

-"Post secondary education."

QUESTION 4:
Have you found through your data collection responsibilities that there are barriers to VEA and JTPA coordination? If so, please explain.

	VOC ED	JTPA
YES	23	18
NO	19	9
TOTAL	42	27

Comments:

VOC ED: YES

-Both programs use different follow up methods, JTPA for 13 weeks and VEA at a point in time. VEA statistics may indicate a higher placement rate. The JTPA 8% setaside statistics are not reported to DOL on a national level.

-Each act has its own data collection requirements and forms. Standard reporting forms need to be developed.

-The programs have two different goals. There is a barrier especially in adult education. "Job placement" performance standard is unrealistic in many cases. There should be more than one standard to measure success.

-The statutes contain conflicting definitions, fiscal requirements, eligibility standards, and accounting requirements.

-It's difficult to separate academically and economically disadvantaged.

-A data collection system should be mandated in VEA.

-Since all our JTPA data are collected via SDA's, and Labor and Industry Department, it is not compatible with data collected from schools through VEMIS and VEA. Financial information is totally different. Expenditure categories, i.e. administration, training and support services, under JTPA are not the categories identified in VEA. Most JTPA clients are served on a tuition basis while VEA programs fund direct costs.

-The biggest problem has been lack of use of standardized employment supply/demand codes to identify job openings and training provided. This problem is being addressed by the state Occupational Coordinating Committee... A second issue deals with

the confidentiality of personal data. The state attorney general's office has reviewed the questions and empowered the Commissioner of Education to mandate the release of the information.

-JTPA MIS requires substantial paperwork while the VEA VEDS system is easier to manage. Sometimes at the local level there is hesitancy to participate in JTPA because of the paperwork burden.

-JTPA eligibility documentation (proof of family size income, residency, selective service registration, citizenship, age, and barriers to employment) is very cumbersome for LEA's to collect. JTPA also requires far more student/client demographic information be collected. These items are a disincentive to bidders for accepting JTPA funds at both the state and local levels.

-JTPA requires too much paperwork -- we can't get at the duplicate count among clients.

-Programs have different success criteria, i.e program outcomes, follow up requirements and reporting requirements.

-JTPA performance standards discourage long term training, often needed for many clients.

-Present "disadvantaged" definition causes problems in accurate reporting.

-We cannot get data on JTPA use of voc ed facilities.

-One data collection process should serve voc ed and JTPA populations.

-The number of individuals who can be served with VEA and JTPA is approximately the same. Yet coordination is inhibited since the disparity in the federal funding of the two programs threatens coordination, as JTPA may swallow up VEA.

<u>JTPA:YES</u>
-Funding cycles are different.

-Review intake and assessment systems for consistency.

-VEA locked into a given set of service providers -- local education systems.

-Different kinds of data are required -- around the 8% in particular.

-There is no uniform effort to collect valid statistics concerning the job related entered employment rate of voc ed graduates.

-Maintaining separate client bases for two programs is inefficient and makes automation difficult. Coupled with definitional and program year inconsistencies, client tracking in a statewide case management system is nearly impossible.

VOC ED: NO

-Problems exist when collecting data on the 78% Title II programs and Governor's discretionary funds.

-Data collection is not a problem in our state. The primary barrier is that our LEA's and eligible recipients do not know what a SDA is, who to contact or where the SDA is located. Federal legislation assumes too much.

-Barriers in our state relate to "turf," and in the length and timeliness of offering training programs. (3 responses).

JTPA:NO

-VEA requirements are much looser.

-Two systems operate under different external pressures and accountability constraints.

-VEA should become more performance standards oriented, but that may lead to "creaming" good clients who are most likely to succeed.

QUESTION 5:
If a single, coherent, legal reference containing all JTPA and VEA requirements was developed, would you find such a resource very helpful in the administration and coordination of programs?

	VOC ED	JTPA
YES	43	26
NO	2	3
TOTAL	45	29

Comments:

JTPA:YES
-Not a major issue; however, if a single reference were available it should be available to all VEA and JTPA administrative agencies. Mechanisms should be developed to make sure it is continuously updated and organized so one does not have to search through reams of irrelevant information.

-As long as there was a systematic way for states to receive updates to the legal reference document. Inform JTPA state liaisons of DED grant notices of discretionary funds which call for state and local coordination between education institutions and employment and training providers.

VOC ED:NO
-Too voluminous and confusing. A single set for each program should be established.

JTPA:NO
-Might be too cumbersome and bulky -- must be absolutely accurate.

QUESTION 6:
Was it your understanding that all applicable policies were published in the Federal Register?

	VOC ED	JTPA
YES	23	16
NO	22	13
TOTAL	45	29

QUESTION 7:
Would it be helpful to have all applicable policies published in the Federal Register?

	VOC ED	JTPA
YES	43	28
NO	2	2
TOTAL	45	30

QUESTION 8:
If VEA permitted a soft match, or in-kind contributions at the State and local level, would there be greater coordination?

	VOC ED	JTPA
YES	30	16
NO	12	8
TOTAL	42	24

COMMENTS:

VOC ED:YES

-If LEA's seek financial help to serve their JTPA eligible students then match is not a problem. When JTPA comes to education asking them to provide a vocational program for a group of their students then the match becomes an issue.

-Matching requirements have not been an effective tool to leverage greater state or local support for voc ed. Rather they tend to play the role of a distracting and debilitating administrative overhead. More relaxed requirements would be an improvement; abolition would be even better.

-Only if more explicit instructions were communicated to staff involved in the process.

-There would be greater use of VEA disadvantaged funds. This does not mean greater coordination would occur. The ambiguity of in kind contributions remain a severe problem

-A soft match for VEA would make it easier to coordinate and "cost share" with JTPA.

-Many districts can offer personnel and facilities but do not have a cash match. As long as the match can be documented agencies should be able to use it.

-The disadvantaged set asides are allowed to use in kind match under certain circumstances. In kind match should be continued.

-Many school districts are in serious financial shape. Soft match, and combining VEA and JTPA funds, would help.

-It would make accounting simpler at the local level.

-Possibly yes but the cost would be considerable and...would result in reduced local screening of projects because actual expenditures would be reduced. This could result in weaker commitment to offer the programs, and a reduction in the size of programs and the number served.

-Soft match should be allowed only for the D and H set asides which LEA's have the most difficulty meeting VEA match requirements and are unable to spend out their eligibilities.

JTPA:YES

-In kind match would allow poorer school districts to provide needed services to the economically disadvantaged.

-If the source of soft match is from the private sector.

-Permits more flexibility in program design and use of resources.

-Hard match is difficult to generate in a depressed economy. But soft match is nothing more than a paper chase.

-Soft match would permit more decentralization in VEA system so it would parallel JTPA planning process.

-Don't really know. It might be easier but not necessarily lead to greater co-ordination.

VOC ED: NO

-Not directly. Coordination is not directly linked to soft match.

-No significant advantage would be gained due to the additional paperwork burden.

-Greater coordination if programs could be used to match each other.

-The flexibility is greater with soft match but...the audit trails are very difficult to maintain and keep discreet.

-Matching funds have not been an issue. State funds voc ed 10:1. In kind contributions are very broad; audits are no problem.

-Too separate program entities. Coordination will remain strained until legislated.

-Not necessarily. Coordination is more determined by local level programs, as they see the need for it.

-In kind contributions are meaningless and contribute nothing to programs and services. Matching requirements do not impede coordination in our state.

JTPA:NO

-Soft match is usually a matter of paperwork and a bookkeeping exercise which does not substantially increase program resources or coordination.

-No match is preferable, but for VEA a hard match should be maintained.

-Soft match has never created better coordination with other programs.

-Prefer no soft match because of difficulty of documentation. This would cause a reduction in committed funding from state and local sources.

-Eliminate the match would be better. (3 responses).

QUESTION 9:
Do you believe that the 50-50 match requirements in the VEA and JTPA 8% setaside inhibit coordination between the programs?

	VOC ED	JTPA
YES	23	15
NO	19	14
TOTAL	42	29

Comments:

VOC ED:YES
-Any matching requirements limits use of available funds--especially in poor school districts where the need is greatest.

-Match can inhibit coordination in any program. Communication and understanding need to be improved.

-Eliminate match under JTPA 8% and consider reduced match for VEA.

-Agencies overmatch in the education arena now. It is the JTPA match that school districts need.

-Many eligible recipients are responsible for services to a variety of students and/or clients. Funds are not available to pay for all the different services that are needed. Many providers are non-profit organizations and do not have the non-federal monies available.

-The match requirements only divert funds from existing programs to fund joint programs.

-Audit requirements and record keeping are major problems.

-JTPA should be administered by the education establishment.

-Matching requirements eliminate the best use of funding. Flexibility given the 50-50 match if modified would allow needed programs to be implemented in areas not now possible.

JTPA:YES
-Since non-federal funds must be used, match should be eliminated.

-Match forces you to concentrate on matching rather than on program goals.

-Eliminate the match.

-Soft match is only a bookkeeping exercise.

-Local employers are reluctant to include voc ed in any package because of the match requirement. Too confusing; too much red tape.

-Matching requirements for each program differ. Providing the same matching requirements or allowing one source to match the other could provide additional incentives to coordinate.

-JTPA could link services with a number of programs if there were no matching requirements. Matching has inhibited the use of JTPA 8% and Title III funds. We suspect the technical requirements of the VEA match prevents many schools from accessing additional program funds.

VOC ED:NO

-Local programs can generate required matching for programs.

-JTPA match provides a problem at the local level because the state provides the match. The "excess cost" provision of VEA presents much more of a barrier to coordination.

-It works both ways. In some cases the need for JTPA match has prompted SDA's to involve LEA's in a given project. In other cases when the LEA's become aware that JTPA allows in kind match it reduces their concern. If state aggregated match were allowable it would be better used.

-Our state is overmatched. Matching encourages PIC's to use public facilities.

-The sole state agency under VEA in our state has received no funds under JTPA 8% -- matching requirements are irrelevant. This is a major barrier to coordination.

JTPA:NO

-Matching is not the issue. There are two self contained systems. VEA want to deal only with "good" students, not disadvantaged; they want students only, not adults; and they want to operate only during standard school hours, not evenings or weekends.

-Not an issue in our state.

-Not an issue. Substantial coordination occurs, especially within the secondary system.

-The requirements result in programs competing for the same resources -- especially true in states with highly decentralized decision making.

-Match itself is not the problem. Inconsistent administrative and accounting burdens imposed by two federal departments are the problem.

QUESTION 10:
If federal Voc Ed funds could be used to match federal JTPA funds and vice versa...

A. Would coordination occur? _____YES _____NO

	VOC ED	JTPA
YES	36	23
NO	5	4
TOTAL	41	27

B. Would better programs be possible? _____YES _____NO

	VOC ED	JTPA
YES	34	22
NO	5	3
TOTAL	39	25

C. Would less federal funds be returned? _____YES _____NO

	VOC ED	JTPA
YES	30	21
NO	6	3
TOTAL	36	24

COMMENTS:

<u>VOC ED:YES</u>
-JTPA funds have the flexibility to provide segments of the program not available under VEA.

-This would provide additional funds from either end of the system. That would build better programs.

-VEA funds can match JTPA funds NOW!

-Should reconsider 50-50 VEA match.

-Will allow program dollars to go farther and allow districts with economic inhibitors to participate.

-Only if both programs are under direct supervision of the same administrator.

-We don't agree with matching federal funds with federal funds; however, there would be more use of funds if it were done.

-If both programs are targeted to the same clients for the same purpose, i.e. classroom vocational training, then why not co-fund rather than setting up two separate and competing programs with dual administrative expenses?

-There are two distinct client groups; those in school and those out of school. Within each group, look at disadvantaged set asides.

-For community based organizations only.

-If JTPA funds could be used to match VEA funds, the targeting of disadvantaged set asides funds and handicapped set aside funds could be used by LEA's without the burden of generating a match from cash expenditures for the handicapped and in kind or cash match for the disadvantaged.

<u>JTPA:YES</u>

-Would allow both programs to conduct special programs in each's field of expertise and allow states to work on new appraisals which are not now possible because of match requirements.

-JTPA funds should be used to match VEA and other DOE programs which support dropout prevention, literacy, services to limited English proficient, and adult basic skills.

-Economies of scale may take place.

-Spending money is not a JTPA problem!

-Allowing JTPA funds to match VEA appears to offer additional incentives to coordinate and fully expend available federal resources. Program quality would not automatically improve, but state and local flexibility would.

-More coordination would occur if JTPA performance outcomes were modified to accommodate joint programming. Increased resources pool would result in better, more comprehensive program designs.

-If allowed, more local areas would use JTPA and VEA funds, and would deliver more comprehensive programs to at-risk youths.

VOC ED: NO
-We don't believe federal funds should match federal funds.

-We already have a 10:1 match of state funds over federal VEA funds.

-There is little evidence to suggest that such matching would improve coordination.

-Matching requirements do not impede coordination. There must be a sincere willingness and desire by both state and local agencies to cooperate.

JTPA:NO
-Match is the wrong issue.

-Match not a significant issue.

QUESTION 11:
If the definition of "disadvantaged" were the same in both laws...

A. Would more coordination occur? _____YES _____NO

	VOC ED	JTPA
YES	35	22
NO	6	5
TOTAL	41	27

B. Would better programs be possible? _____YES _____NO

	VOC ED	JTPA
YES	34	18
NO	6	7
TOTAL	40	25

COMMENTS:

VOC ED:YES
-The fact that one is economically disadvantaged may not mean he or she needs a special service to succeed in a program. The access barriers tend to be money, transportation and childcare.

-But...the real problem is that VEA disadvantaged set asides may not be used directly to increase access to voc ed for economically disadvantaged students. Allowable expenses should be expanded to include: tuition waivers, stipends, childcare, and transportation (as under Title II, Part B).

-Dropout prevention and reenrollment programs are difficult to operate combining JTPA Title 11/A and/or 11/B due to the limitation on noneconomically disadvantaged.

-JTPA has fewer problems in defining the disadvantaged person than voc ed due to the certification requirements necessary to serve a JTPA participant.

-All parties would be working with identical language.

-Not really sure. Intentions of the laws are different.

-There would be less confusion at the state and local levels, and possibly better programs.

-The same clients could be served better.

-Many school age individuals cannot benefit from services due to the restrictions in the JTPA legislation which requires eligibility based on economic factors.

-It would eliminate separate eligibility determinations and allow both programs to use common forms and referrals to either program or jointly funded programs.

-If definitions are the same and include "academically disadvantaged," both programs' goals would be even more similar than they currently are.

-If "academic disadvantaged" were part of the hard to serve definition. Focus on publicly supported institutions.

If "academic disadvantaged" were considered a barrier to employment, it would broaden JTPA.

<u>JTPA:YES</u>

-It would allow a more targeted approach enabling program operators to focus on program quality and not just guarding against audit exceptions.

-The shared definition should not compromise the national JTPA objective to target hard to serve, most in need economically disadvantaged youth and adults. Another problem is the differing definitions of "youth."

-Focus of the programs should not be for economically disadvantaged.

-VEA should focus more on general education so students can compete all their lives; they're too young in high school to choose a "career."

-Common definitions are usually helpful in terms of allowing/ encouraging programs to serve common clients. Not a major problem in our state.

-Inconsistencies in eligibility is basis of other barriers. Present difficulties with cross client referral, joint programming and MIS's would be relieved.

-Under VEA a non-economically disadvantaged youth who is falling behind in academic achievements for any reason could be served while JTPA can serve this same youth having barriers to employment -- but in limited numbers. Common definitions would allay much confusion in local areas and target funds to youths in most need.

VOC ED:NO
-Definitions are not the problem!

-VEA has broader concerns that JTPA's economically disadvantaged category. Could be restrictive to VEA if JTPA definition were adopted.

-Could erase distinctions in programs and promote duplication of services, competition and reluctance to cooperate.

-Purposes, priorities and funding levels under both statutes are quite different and the different definitions reflect this. They should be left the same. Coordination is possible for the population groups where they overlap.

JTPA:NO
-No a major problem -- economically disadvantaged usually incorporates VEA disadvantaged.

-VEA does not need income based eligibility criteria.

-JTPA and VRA have complimentary but not identical program objectives. Common planning and oversight should be explored and common definitions should be used wherever possible. However, there are fundamental differences in program objectives. Separately define both types of disadvantagement.

QUESTION 12:
Have you ever experienced audit practices from either DOL or ED that have deterred you from undertaking new initiatives?

A. Department of Education _____YES _____NO

	VOC ED	JTPA
YES	12	1
NO	33	20
TOTAL	45	21

B. Department of Labor _____YES _____NO

	VOC ED	JTPA
YES	7	5
NO	33	26
TOTAL	40	31

COMMENTS:

VOC ED:YES
-We are very careful. DOE auditors do a good job of interpreting the regulations four years later.

-Finding under DED resulted in our operating programs strictly within a fiscal year in order to close out grants and have all entries on the books within 27 months. Findings under DOL regarding time record issue limit the use of manpower in that every hour must be accounted for.

-FEAR of audit has predicated lack of innovations.

-Audit requirements and physical requirements should support program needs, rather than vice versa.

-We fought several audit exceptions with DED and it took six years to resolve the cases.

JTPA:YES

-DOL unwilling to negotiate even when DOL received services for funds spent in the appropriate categories.

-DOL excessive recordkeeping has been required to avoid compliance review and audit problems.

-DOL's strict interpretation of performance based contracting makes it nearly impossible to contract with schools using this method.

-DOL's narrow perspective on performance contracting has alienated schools. By its fiscal structure voc ed cannot "float" a training program until JTPA defined outcomes have been realized.

VOC ED:NO

-DOL compliance monitoring requirements and contracting methods are different from DED; problems are identified and corrected early.

-New initiatives are undertaken independently of audit practices and according to criteria that relate to agency guidelines for project development, and need.

-JTPA's 8% initiatives have been the most flexible to encourage new programs.

JTPA:NO

-DED tightened up audit/accountability and voc ed people were not used to it, whereas JTPA people were used to CETA's procedures and DOL's documentation and audits.

-DOL's experience has been straightforward and follows previously outlined experiences. Previous DED experience was excessively lengthy and troublesome. This has not deterred efforts to undertake new initiatives.

QUESTION 13:
To what extent does fear of audit exposure inhibit coordination between VEA and JTPA programs?

	VOC ED	JTPA
VERY MUCH	4	0
SOMEWHAT	18	11
VERY LITTLE	14	8
NOT AT ALL	8	8
TOTAL	44	27

QUESTION 14:
Do you have any problems getting answers to your questions from...

A. Department of Education _____YES _____NO

	VOC ED	JTPA
YES	12	
NO	28	
TOTAL	40	

COMMENTS:

VOC ED: YES
-DOE will respond to questions. We aren't always smart enough to ask the right questions prior to audits.

-We are shuffled around to different people in the departments trying to get an answer. DOL and DED ought to have an 800 toll free hot line for us!

-Sometimes they cannot answer complete questions.

-It all depends upon who you talk to. It's easy to get an unofficial answer; hard to get an official answer.

-We can get an initial staff opinion but it's hard to get things in writing.

-It's hard to get a reasonable response.

-Things are always six months old.

VOC ED:NO
-Both departments have been responsive to our needs.

-But...it just takes months for an answer.

-They will give us answers...but I don't always like them.

-We only call, never write. We only get staff interpretations.

-We rarely ever ask!

-We don't have a problem getting answers...but sometimes we have trouble getting correct answers.

B. Department of Labor _____YES _____NO

	VOC ED	JTPA
YES		14
NO		16
TOTAL		30

COMMENTS:

JTPA:YES
-Sometimes we prefer not to get their answers.

-We often get mixed signals.

-It takes too long to get answers.

-DOL doesn't like to put anything in writing.

-We get a lot of lip service to "improvement."

-DOL doesn't communicate its findings and general policies to everyone -- only to the state or program that asks a particular question.

-JTPA is purposefully ambiguous legislation, but there are a number of gray areas that persist. DOL refers issues back to governors for resolution.

-We often wonder if DOL's answers/opinions will hold up under audit.

-"It is up to your governor" is their usual answer.

JTPA:NO
-They've vastly improved during the past few years.

-Improved substantially since Brock was Secretary.

Survey
2/1/89